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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/762,415	01/22/2004	Dale A. Gepfrey	GII 001 P2 US	4545
7590 Joseph G. Nauman 696 Renolda Woods Ct. Dayton, OH 45429-3415		11/28/2007	EXAMINER STRIMBU, GREGORY J	
			ART UNIT	PAPER NUMBER
			3634	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/762,415	GEPFREY ET AL.
Examiner	Art Unit	
Gregory J. Strimbu	3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 01 August 2006 and 04 September 2007.
- 2a) This action is **FINAL**.                                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
  - 4a) Of the above claim(s) 14-20 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-13 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 22 January 2004 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date _____	6) <input type="checkbox"/> Other: _____

It should first be noted that U.S. patent application serial number 10/762,415 is a continuation under 35 USC 120 of PCT application number PCT/US02/23360. Therefore, the applicant's comments concerning the provisions of 35 USC 371-376 do not apply to this application.

***Election/Restrictions***

Applicant's election with traverse of Group I in the reply filed on August 1, 2006 is acknowledged. The traversal is on the ground(s) that the instant application is 371 of a PCT application. This is not found persuasive because the instant application is a continuation of PCT/US02/23360 filed under the provisions of 35 USC 120. Therefore, the applicant's arguments based on 35 USC 371 are not persuasive.

The requirement is still deemed proper and is therefore made FINAL.

***Drawings***

Figures 3A, 4A, 4B, 5A, 6A, 6B and 8A are objected to because the applicant has not used the proper cross sectional shading when showing the invention in cross section. For example, see figure 3A where the sash profile 40R and 40S is not shown with the proper cross sectional shading. See MPEP 608.02. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing

should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Recitations such as "the assembled window" on line 10 of claim 1 render the claims indefinite because they lack antecedent basis. Recitations such as "water-tight joints" on line 2 of claim 3 render the claims indefinite because it is unclear if the applicant is referring to the water tight joints set forth above or is attempting to set forth another joint in addition to the one set forth above. Recitations such as "male spline fittings" on line 2 of claim 4 render the claims indefinite because it is unclear if the applicant is referring to the spline sections set forth above or is attempting to set forth splines in addition to the

ones set forth above. Recitations such as "the channels" on line 7 of claim 6 render the claims indefinite because they lack antecedent basis since the applicant has set forth only one channel above. Recitations such as "at least one . . . is partially opened" on lines 12-14 of claim 6 render the claims indefinite because it is unclear what the applicant is attempting to set forth. First, the applicant has set forth only one sash frame above. Second, it is unclear how a sash frame can move along itself. Recitations such as "to provide an opening" on line 2 of claim 7 render the claims indefinite because it is unclear how the window sashes can provide an opening. It appears that the outer frame defines the opening and the window sashes merely are disposed in the opening to close the opening or are disposed away from the opening to provide access through the opening. Recitations such as "and/or" on line 3 of claim 12 render the claims indefinite because it is unclear what is meant by the recitation "/". Is the applicant setting forth "or" or "and" or is the applicant setting forth "and" and "or"?

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 6-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Guarnacci (US 4205486). Guarnacci discloses a window construction comprising an exterior frame (not numbered, but shown in figure 3) including at least four integrally

formed frame corners 1b, 2b, 5b, 6b and at least four lineal rails 102, 120, 122, 126 joined between said frame corners to define the exterior shape of the frame outer edges and the shape of the edges of an interior opening (not numbered, but shown in figure 3 occupied by the inner sash) surrounded by the frame, the lineal rails providing the header, sill, and jambs of the frame, the joints of said formed corners and rails having complementary rigid joint sections 80, 92 integral with the respective frame corners and rails and interfitted to present a smooth exterior at least on the exteriorly visible parts of the joints (as shown in figure 3), said corners and rails also having integral exterior frame flanges (not numbered, but shown in figures 25 and 26) extending outward thereof for attachment of the assembled window into a window aperture, said rails having at least one frame channel (not numbered, but shown in figures 25 and 26) the corners having at least one frame channel (not shown, but shown in figures 8 and 12), said frame channels extending about the interior opening to receive and support a window pane, and said rails and corners being formed from essentially the same material; said joint sections include spline sections 81, 84 integrally formed on said corners and complementary interior sections (not shown) in at least the ends of said rails so as to receive said spline sections; said frame channel receives the edges of a sash construction (not specifically numbered, but shown in figure 3), said sash construction including at least one set of four sash lineal pieces 32, 35, 36, 42, 62 and at least four integrally formed single piece sash corners 1a, 2a, 5a, 6a including integral splines 22, 24 joined to define at least one sash frame dimensioned to fit within said frame channel, said sash lineal pieces and formed sash corners defining the exterior

shape of the sash frame outer edges to conform to the channels, and also defining the shape of the edges of an interior opening surrounded by the frame, said lineal pieces providing the header, sill, and jambs of the sash frame; said sash pieces and corners forming a sash channel 32X (also see column 4, lines 15-17) to receive at least one window pane within the sash frame, at least one of said sash frames being movable along its channel such that the jambs of the two sashes overlap and close the interior opening of the exterior frame, and to positions along its channel wherein the window is partially opened.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-4, 6-8, 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Guarnacci as applied to claims 1 and 6-8 above, and further in view of UK Patent Application 2 150 182. Guarnacci is arguably silent concerning water-tight joint sections.

However, UK Patent Publication 2 150 182 discloses the use of a sealant to connect corner sections of a frame to lineal rails of the frame. See page 2, lines 80-84.

It would have been obvious to one of ordinary skill in the art to provide Guarnacci with a sealant, as taught by UK Patent Publication 2 150 182, to seal against water penetration and to add strength to the joint.

Claims 5, 6, 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Guarnacci as applied to claims 1 and 6-8 above, and further in view of Slocomb (US 5105581). Slocomb discloses the use of welding to secure the elements of a plastic window frame together to form a water tight seal.

It would have been obvious to one of ordinary skill in the art to construct the window frame of Guarnacci with welding, as taught by Slocomb, to increase the strength of the window frame.

With respect to claim 11, the recitations to extruding and molding have been treated as product-by-process limitations. Accordingly, the combination of the teachings of Guarnacci and Slocomb anticipates the claim 11 since the combination discloses the claimed apparatus.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Guarnacci in view of Slocomb as applied to claims 5, 6, 11 and 12 above, and further in view of Kenkel (US 4555869).

Kenkel discloses a window construction comprising a sill 28 wherein the sill has an outwardly and downwardly sloped surface 53 as shown in figure 6.

It would have been obvious to one of ordinary skill in the art to provide Guarnacci, as modified above, with a sloped surface, as taught by Kenkel, to ensure that water is drained away from the sill.

### ***Response to Arguments***

Applicant's arguments filed August 1, 2006 have been fully considered but they are not persuasive.

Regarding the applicant's comments concerning Guarnacci, the examiner respectfully disagrees. Claim 1 requires that the corners of the frame be "integrally formed". Thus, claim 1 only requires the frame corners to be formed as one piece which is clearly disclosed by Guarnacci.

Regarding the applicant's comments concerning Kenkel, the surface 53 is clearly sloped as shown in figure 6.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory J. Stribu whose telephone number is 571-272-6836. The examiner can normally be reached on Monday through Friday 8:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on 571-272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Gregory J. Stribu  
Primary Examiner  
Art Unit 3634  
November 23, 2007